

RULES OF THE CIRCUIT COURTS OF THE STATE OF HAWAI‘I

**Adopted and Promulgated by
the Supreme Court
of the State of Hawai‘i**

**As adopted February 11, 1971
With Amendments as Noted**

**The Judiciary
State of Hawai‘i**

RULES OF THE CIRCUIT COURTS

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**RULES OF THE CIRCUIT COURTS
OF THE STATE OF HAWAII**

Rule 1. CLASSIFICATION OF PROCEEDINGS.

All proceedings shall be divided into classes, viz.: CIVIL; CRIMINAL; CONSERVATORSHIP; CONSERVATORSHIP-GUARDIANSHIP; SMALL CONSERVATORSHIP; PROBATE; GUARDIANSHIP; SMALL ESTATE; SMALL GUARDIANSHIP; TRUST; SPECIAL PROCEEDINGS; MECHANIC'S AND MATERIALMAN'S LIEN; AND FAMILY COURT.

Proceedings in mandamus, habeas corpus, quo warranto, prohibition and any other proceedings not specifically included herein shall be classified under special proceedings.

(Amended May 31, 2005, effective July 1, 2005.)

Rule 2. FILING PROCEDURE.

(a) Classification. Upon the filing of the initial pleading or other papers, and before the issuance of process, the clerk shall classify and assign a number to such proceeding. All subsequent pleadings and papers to be filed shall bear the number assigned to the initial papers, which shall appear on the first page.

(b) Stamp by clerk. The clerk shall promptly stamp the time and date upon all papers filed.

(c) Docket entry and filing. Upon the filing of any papers, an appropriate entry shall be made in a docket sheet kept for each case. Each case shall be filed separately and its file shall contain an index sheet identifying particularly each paper in such file and stating the date of filing.

(d) Service of pleadings and other papers.

(1) FILING: ORIGINAL KEPT ON FILE; COPIES FOR SERVICE. Subject to subsection (2) of this subsection (d), pertaining to interrogatories and other discovery papers, when a pleading or other paper requiring service is presented for filing, the original shall be accompanied with a sufficient number of copies for service. The original shall be kept on file by the clerk, provided, however, the original summons may be withdrawn by the serving officer. Service may be made with the certified copy or copies of the papers together with the certified copy or copies of the summons, and the serving officer shall make proof of service to the court promptly by returning the

original summons to the clerk.

(2) SERVICE AND FILING OF INTERROGATORIES AND OTHER DISCOVERY PAPERS. The filing of interrogatories and other discovery papers shall be governed by Rule 5 of the Hawai'i Rules of Civil Procedure or Hawai'i Family Court Rules. A party seeking admissions or answers to interrogatories shall serve two copies of the request for admissions or interrogatories upon the party from whom the admissions or answers are sought.

(e) Wills. In domiciliary probate cases, the original and a certified copy of the will shall be filed, together with the initial petition.

(f) Place of filing. Pleadings and papers for filing shall be presented to the Office of the Clerk except as otherwise directed by the court. The clerk shall furnish certified copies of all papers filed if so requested at the time of filing.

(Amended March 6, 1980, effective March 6, 1980, further amended March 16, 1984, partly effective March 16, 1984, fully effective May 1, 1984.)

Rule 2.1. EX OFFICIO FILING.

The respective clerks of the circuit courts shall be ex officio clerks of all the courts of record and as such may accept for filing complaints, notices of appeal and appellate briefs and may issue summons returnable in all such courts.

(Added July 26, 1990, effective September 1, 1990.)

Rule 2.2. COSTS AND FEES TO BE COLLECTED BY THE CLERK.

The clerk shall collect costs and fees provided by Chapter 607 of the Hawai'i Revised Statutes except that the clerk shall collect the amounts specified herein as follows:

1. For copies of any document in any public record maintained by the clerk:
 - a. in the clerk's office:
 - i. \$1.00 for the first page
 - ii. \$.50 for each additional page
 - b. in an off-site storage location:

\$5.00 plus usual copying charge

Rule 2.2

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- c. on microfilm:
 - i. \$5.00 when provided by the clerk plus \$1.00 per page
 - ii. \$1.00 per page when obtained via self-service
- 2. For telefaxing of any document in any public record, the applicable charges plus:
 - i. within Hawai'i:
 - \$2.00 first page
 - \$1.00 each additional page
 - ii. outside Hawai'i, within the United States:
 - \$5.00 first page
 - \$2.00 each additional page
 - iii. outside the United States:
 - \$10.00 first page
 - \$5.00 each additional page
- 3. For copies of audio tapes, electronic copy of any document: \$10.00
- 4. For copies of video tapes: cost of production
- 5. For any expedited or rush requests (copy(ies) provided within 4 hours if request received before noon):
 - \$10.00 plus all other applicable charges
- 6. Transfer of an action to circuit court from district court, in addition to district court fees:
 - \$125.00
- 7. Certification under seal of a copy of a pleading or other paper subsequent to the initial filing of the pleading or paper, except the record on appeal: \$2.00
- 8. Making of copy; comparing of copy with original; certification or authentication of notaries:
 - \$3.00
- 9. Ex officio filing (in addition to the usual filing fee):
 - \$10.00
- 10. Exemplification, instead of item (26) in HRS § 607-5(c): \$4.00
- 11. Filing of notary commission:
 - \$6.00
- 12. Filing of initial paper under HRS § 507-43 by person asserting mechanic's or materialman's lien (in addition to the fee prescribed by part I of HRS § 607-5 for bringing an action under HRS § 507-47):
 - \$30.00
- 13. Notice of completion of contract:
 - \$5.00

- 14. Objection to notice of dismissal "Civil Compliance":
 - \$30.00

- 15. Search of records by the clerk:

\$5.00

- 16. Retrieval of files from storage:

\$5.00

17. Parties to a pending case shall not be charged for the first copy of the court order, opinion, judgment or any other item entered in the case by the court, whether provided on paper or electronically.

18. The clerk shall charge the actual cost of mailing paper copies of any item, provided that the parties to a pending case shall not be charged for the mailing of the first paper copy of a court order, opinion, or other item entered in the case by the court.

19. The court may waive costs and fees for good cause shown. In lieu of copying and mailing fees, the administrative judge or the senior judge of the family court division may authorize the clerk to provide copies of orders, opinions, or other items to publishing companies in exchange for published materials for the benefit of the court or the judiciary.

(Added June 15, 2005, effective July 1, 2005; further amended November 23, 2005, effective January 1, 2006.)

Rule 3. FORM OF PLEADINGS AND MOTIONS.

(a) Form. All pleadings and papers to be filed shall be typewritten, printed, photocopied, or otherwise similarly prepared by a duplication process that will produce clear and permanent copies equally legible to printing, upon unruled, opaque, unglazed white paper of standard quality not less than thirteen pound weight, 8 1/2 x 11 inches in size and each sheet shall have a margin at the top and bottom of 1 inch (except as otherwise provided in paragraph (c) of this rule). The left-hand and right-hand side margin shall be not less than 1 inch. Such papers shall be typewritten in heavily inked black ribbon or printed in black. The type shall be standard 12 point pica or equivalent. Copies, but not originals, may be two-sided, and the lines on each page shall be double-spaced or one and one-half spaced; provided, however, descriptions of real property, and quotations, may be single spaced. All pages shall be numbered consecutively at the bottom and shall be firmly bound together at the top. Exhibits may be

fastened to pages of the specified size and, when prepared by a machine-copying process, shall be equal to typewritten material in legibility and permanency of image. Signatures and all other handwritten entries on papers shall be in black ink.

(b) No flyleaf shall be attached to any paper. No flyleaf shall be attached to any paper. All papers shall be filed without backs and shall be neat, clean, legible and free of interlineations.

(c) Form of first page. The first page of all papers, except as provided hereinbelow in (d), shall be in the following form:

(1) The space at the top left of the center of the page shall contain the name, code number, office address and telephone number of the attorney for the party in whose behalf the paper is filed, or of the party if he is appearing in person;

(2) The space at the top right of the center of the page shall be left blank for the use of the clerk of the court;

(3) Next, there shall be centered the name of the court, which shall be not less than 3 inches from the top of the page;

(4) Next, the space to the left of the center of the page shall contain the title of the cause (which title shall include the names of all of the parties in the initial pleading, but thereafter may be appropriately abbreviated);

(5) In the space to the right of the title of the cause, there shall be listed the class and case number followed in civil cases by the category best describing the claims asserted in the case and followed in all cases by the character of the paper (which shall include an appropriate notation if a jury trial is demanded in the paper).

The category best describing the claims asserted in a civil case shall be selected from the following:

- Agency Appeal
- Agreement of Sale Foreclosure
- Assault & Battery
- Condemnation
- Construction Defects
- Contract
- Declaratory Judgment
- Foreclosure
- Legal Malpractice
- Medical Malpractice
- Motor Vehicle Tort
- Product Liability

Other Civil Action

Other Non-Vehicle Tort

(6) Certification or acknowledgment of service may be entered at the bottom margin.

(d) Two pleadings filed together. Where two or more pleadings or other papers are filed together, only the first page of the first paper shall follow all of the requirements of (c) hereinabove; and in addition thereto, there shall be listed, after the case number and before the character of the paper, the character of all of the papers that are being filed together. The top of the first page of each paper other than the first shall start with the name of the court and include the class and case number, the title of the cause and the character of the paper, in appropriate spaces as set forth in (c) hereinabove.

(e) Sanctions. The court may impose sanctions for non-compliance with these rules.

(f) Forms furnished by the court. The court shall furnish such forms as shall have been approved by the supreme court, and those forms shall be used by counsel in all appropriate instances. Such forms shall not be subject to the format requirements of this rule.

(Amended June 21, 1983, partly effective July 1, 1983, fully effective July 1, 1984; further amended April 23, 1984, fully effective July 1, 1984; further amended July 26, 1990, effective September 1, 1990; further amended January 9, 1996, effective March 1, 1996; further amended June 23, 1997 and July 2, 1997, effective August 1, 1997; further amended October 8, 2004, effective January 1, 2005.)

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Rule 4. PARTIES WITHOUT COUNSEL.

Parties who appear in person without counsel shall notify the clerk in writing of their names, their mailing and residence addresses, and telephone numbers and shall keep the clerk informed by proper written notices of changes in the addresses and telephone numbers so given. All such notices shall be duly indexed and filed in the folio for the case.

Rule 5. SERVICE OF PAPERS AND PROOF THEREOF.

(a) Service required. In all civil actions, pleadings and papers shall be served as provided in the Hawai'i Rules of Civil Procedure.

(b) Proof of service. Proof of service may be by written acknowledgment of service, by affidavit of the person making service, or by any other proof satisfactory to the court, unless otherwise provided by law or by the Hawai'i Rules of Civil Procedure. A party who has been prejudiced by failure to receive due notice or to be served, or who has been prejudiced by reason that service was made by mail, may apply to the court for appropriate relief.

Rule 6. WITHDRAWAL OF PAPERS AND EXHIBITS.

The clerk shall permit no pleading or paper to be taken from his custody except as provided by Rule 2(d), or as ordered by the judge. Exhibits may be withdrawn on the written approval of a judge against a written receipt therefor, and the party shall file a copy in its place unless otherwise ordered. Unless otherwise ordered by the court, the parties in all civil actions shall withdraw all exhibits not attached to the pleadings, and all interrogatories, answers thereto, and depositions within one year after final judgment. If not so withdrawn, they shall be deemed abandoned and may be disposed of by the clerk.

Rule 7. FORM OF MOTIONS.

(a) Form. All motions, except when made during a hearing or trial, shall be in writing, shall state the grounds therefor, shall set forth the relief or order sought, and if involving a question of law shall be accompanied by a memorandum in support of the motion. Every motion, except one entitled to be heard ex parte, shall be accompanied by a notice of hearing or of setting for hearing thereof. The motion

may be stated in the notice of hearing. If a motion requires the consideration of facts not appearing of record, it shall be supported by affidavit. The motion shall be filed and served on all parties not less than 18 days before the date set for the hearing.

(b) Opposition and reply. An opposing party may serve and file counter affidavits and a memorandum in opposition to the motion, which shall be served and filed not less than 8 days before the date set for the hearing, except as otherwise provided by the Hawai'i Rules of Civil Procedure or ordered by the Court. The movant may file and serve a reply not less than 3 days before the date set for the hearing. A reply must respond only to arguments raised in the opposition. Unless permitted by another rule or statute, no party may file or serve any papers other than those provided for in this rule. No party may file any papers less than 3 days before the date set for the hearing unless otherwise ordered by the court.

(c) Required notice; effect of failure to appear. A party who does not oppose or who intends to support a motion, or who desires a continuance, shall immediately give written notification to the court and opposing counsel. Failure to appear at the hearing may be deemed a waiver of objections to the granting of the motion.

(d) Motions for continuance. If a date has been assigned for trial of an action, a motion for continuance of the trial shall include on the first page of the notice of motion the trial date assigned and any previously assigned trial dates.

(e) Consent of party to continuance of trial. A motion for continuance of any assigned trial date, whether or not stipulated to by respective counsel, shall be granted only upon a showing of good cause, which shall include a showing that the client-party has consented to the continuance. Consent may be demonstrated by the client-party's signature on a motion for continuance or by the personal appearance in court of the client-party.

(f) Time to file motion. Unless otherwise ordered for good cause shown, all pretrial motions that request entry of judgment or dismissal of any claim shall be filed not later than 50 days prior to the assigned trial date.

(g) Declaration in lieu of affidavit. In lieu of an affidavit, an unsworn declaration may be made by a person, in writing, subscribed as true under penalty of law, and dated, in substantially the following form:

I, (name of person) , do declare under penalty of law that the foregoing is true and correct.

Dated:

(Signature)

(Amended June 22, 1983, effective July 1, 1983, further amended May 24, 1984, effective July 1, 1984; further amended July 26, 1990, effective September 1, 1990; further amended November 22, 1994, effective December 5, 1994; further amended September 11, 1996, effective January 1, 1997; further amended May 15, 1997, effective June 2, 1997.)

Rule 7.1. LENGTH OF MEMORANDA.

Memoranda in support of or in opposition to any motion shall not exceed 20 pages in length exclusive of affidavits, exhibits and attachments. Reply memoranda shall not exceed 10 pages in length exclusive of affidavits, exhibits and attachments. Upon the filing of an ex parte motion, and for good cause shown, the court may grant permission to exceed page limits. All attached exhibits shall have appropriately labeled tabs. Memoranda exceeding 15 pages shall have a table of contents and a table of authorities.

(Added September 11, 1996, effective January 1, 1997.)

Rule 8. SETTING OF MOTIONS.

Motions will be heard upon 18 days written notice in accordance with Rule 7 herein, unless otherwise ordered by the court or unless a different notice is required by the Hawai'i Rules of Civil Procedure, upon having the same placed on the judge's docket by the attorney, and upon filing the moving papers not less than 18 days before the date set for the hearing.

The court on its own motion may order any

matter submitted on the briefs and/or affidavits, without oral argument.

(Amended June 22, 1983, effective July 1, 1983; further amended September 11, 1996, effective January 1, 1997; further amended May 15, 1997, effective June 2, 1997.)

Rule 9. TITLES TO ORDERS.

Every order shall indicate the nature thereof in its title.

Rule 10. ORDERS GRANTABLE BY THE CLERK.

The clerk may grant, sign, and enter the following orders without further direction by the court, but any orders so entered may be set aside or modified by the court:

(a) Orders on consent extending time. Orders on consent extending once for 20 days the time within which to plead or move to a pleading if the time originally prescribed to plead or move has not expired.

(b) Orders granting extension. Orders granting an extension of time once for 15 days the time within which to object to or answer interrogatories to a party if the time to answer such interrogatories has not expired.

(c) Substitution of attorneys. Orders on consent for the substitution of attorneys.

(d) Judgments. Default judgments as provided in Rule 55(b) (1) of the Hawai'i Rules of Civil Procedure.

(e) Other orders. Any other order referred to in the Hawai'i Rules of Civil Procedure which is grantable of course by the clerk.

(Amended October 8, 2004, effective January 1, 2005.)

Rule 10.1. WITHDRAWAL OF COUNSEL.

Except as provided in Rule 10(c) of these rules, withdrawal of counsel in cases pending before the circuit courts shall be effective only upon the approval of the court and shall be subject to the guidelines of Rule 1.16 of the Hawai'i Rules of Professional Conduct and other applicable law.

(Added June 22, 1983, effective July 1, 1983; further amended December 27, 1993, effective January 1, 1994.)

Rule 11. PROOF OF PUBLICATION.

Whenever the publication in a newspaper of any summons, process, notice or order is required, evidence of such publication shall be given by the affidavit of the editor, publisher, manager, foreman, clerk or printer of such newspaper, not interested in the suit, action, matter or proceeding to which such publication relates, to which affidavit shall be attached a copy of such summons, process, notice or order, and which affidavit shall also specify the dates and times when and the newspaper in which the publication was made. The publisher shall file said affidavit with the clerk before the time fixed for hearing.

Rule 12. READY CIVIL CALENDAR.

(a) Preparation of calendar by clerk. At least once in each calendar month, the clerk shall prepare a list of all civil cases wherein a pretrial statement has been filed. Such list shall be known as the "Ready Calendar" and shall be available for public examination.

(b) Pretrial statement. No case shall be placed on the "Ready Calendar" unless a "Pretrial Statement" has been filed and served in accord with Rule 5 of the Hawai'i Rules of Civil Procedure. The pretrial statement shall be filed within 8 months after a complaint has been filed or within any further period of extension granted by the court. It shall contain the following information:

- (1) A statement of facts;
- (2) Admitted facts;
- (3) All claims for relief and all defenses advanced by the party submitting the pretrial statement and the type of evidence expected to be offered in support of each claim and defense;
- (4) The names, addresses, categories (i.e., lay, eye, investigative), and type (i.e., liability, damages)

of all non-expert witnesses reasonably expected to be called by the party submitting the statement and a general statement concerning the nature of the testimony expected;

(5) The name, address and field of expertise of each expert witness expected to testify and a general statement concerning the nature of the testimony expected;

(6) A statement that each party, or the party's lead counsel, conferred in person with the opposing party, or with lead counsel for each opposing party, in a good faith effort to limit all disputed issues, including outstanding discovery, and considered the feasibility of settlement and alternative dispute resolution options. A face-to-face conference is required under these rules and shall not be satisfied by a telephone conference or written correspondence. The face-to-face conference shall take place in the judicial circuit where the action is pending unless otherwise agreed by counsel and/or the parties; and

(7) A statement identifying any party who objects to alternative dispute resolution and the reasons for objecting. If the parties have agreed to an alternative dispute resolution process, a statement identifying the process.

(c) Selection of trial date and consideration of alternative dispute resolution.

(1) Except in cases which have been designated as complex litigation, within 60 days of the filing of the initial pretrial statement, the plaintiff in all cases filed in the First Circuit shall schedule a trial setting status conference that shall be attended by each party or each party's lead counsel and shall be conducted by the Civil Administrative Judge, or the Civil Administrative Judge's designee. The Civil Administrative Judge, or designee, shall:

- (A) Establish the trial date; and
- (B) Discuss alternative dispute resolution options.

The court may consider other matters which may be conducive to the just, efficient and economical determination of the case.

(2) In the Second, Third and Fifth Circuits, unless the court to which the case is assigned orders that the procedure set forth above in paragraph (c)(1) of this rule shall apply, the plaintiff shall, within 60 days of the filing of the initial pretrial statement, file a document with the court indicating the following:

(A) That counsel has agreed upon 3 separate weeks in which the trial can occur, which dates will fall within 150-240 days from the filing date of the initial pretrial statement and that if the trial can be for any one of these 3 weeks, all counsel will be ready to proceed; provided, if the court's calendar cannot accommodate any of the dates, then counsel will meet for a trial setting status conference or agree to a date by conference call; or

(B) That counsel cannot agree and the parties wish a trial setting status conference.

Any party may request a trial setting status conference to establish a trial date and discuss alternative dispute resolution options.

(d) Extension of time to file pretrial statement. By motion, and upon a showing of good cause, the 8-month period in which plaintiff has to file a pretrial statement may be extended by the court.

(e) Designation and order of actions. The cases on the Ready Calendar shall be designated by their respective numbers and by the surname of the first-named party of each side and shall be listed in the order of the filing of the initial pretrial statement.

(f) Motion to strike from calendar. Within 10 days after a pretrial statement has been served, any party may move to strike the statement or the action from the calendar. The motion to strike shall be supported by an affidavit that clearly sets forth why the statement is incorrect or deficient, or why the case should otherwise be stricken from the calendar. The fact that the statement has been filed prior to substantial completion of discovery by other parties to the action shall not be grounds to strike the statement or the action from the calendar.

(g) Restoration to calendar. A case stricken from the ready calendar shall be restored thereto upon the filing of another pretrial statement and its place shall be determined by the filing date of the later statement, unless the court upon motion determines a different priority, e.g., restores the action to the date of the first pretrial statement. Any such motion for a different priority shall be filed at the same time as the new pretrial statement and must be accompanied by an affidavit stating why the case was previously stricken from the calendar and demonstrating good cause why the different priority should be fixed.

(h) Responsive pretrial statement. Every

defendant shall file a "Responsive Pretrial Statement", served as required by Rule 5 of the Hawai'i Rules of Civil Procedure, that sets forth the same kind of information required in the pretrial statement within 60 days of the filing of the first pretrial statement.

(i) Extension of time to file responsive pretrial statement. Parties may stipulate once as a matter of course at any time before the responsive pretrial statement is due to extend the time in which to file the responsive pretrial statement. Parties shall not extend the time in which to file the responsive pretrial statement for more than 30 days. Otherwise, a motion seeking court approval to file a responsive pretrial statement more than 60 days after the filing of a pretrial statement shall be filed within 30 days of filing of a pretrial statement and shall specifically state why a responsive pretrial statement cannot be timely filed. If incomplete discovery is the reason why a responsive pretrial statement cannot be submitted, the motion shall include a schedule for completing discovery and the date when the responsive pretrial statement shall be filed.

(j) Amending pretrial statements. Pretrial statements must be continually amended in the same manner in which answers to interrogatories must be amended.

(k) Designation as complex litigation. Any party may move to have a case designated by the court as Complex Litigation within 8 months after a complaint has been filed or at any time upon good cause shown. The judge hearing the Motion for Designation as Complex Litigation will have complete and unreviewable discretion in making the determination. Upon such a designation by the court, in cases where a jury will decide all issues the case will be assigned to a trial judge for handling until conclusion. In non-jury cases, the case will be assigned to a trial judge for handling until trial, but may be reassigned to a separate judge for the actual trial. This rule shall apply to cases filed in the First Circuit and other circuits as ordered by the Civil Administrative Judge of that circuit.

(1) CRITERIA. In determining whether a case should be designated as Complex Litigation, the court shall consider the following criteria:

(i) The estimated amount in controversy is in excess of \$750,000, excluding interest, attorney's fees and costs;

- (ii) The estimated length of trial is six weeks or more;
- (iii) The number of parties, including all plaintiffs and defendants is ten or more;
- (iv) One or more of the parties is a person who is not a citizen or resident of the United States;
- (v) The anticipated number of expert witnesses is eight or more;
- (vi) The case involves complex and multiple issues;
- (vii) The subject matter of the case involves either asbestos, natural catastrophes, national trends, construction or class actions;
- (viii) Discovery is anticipated to be complex; or
- (ix) Any other matters which may be conducive to the just, efficient, and economical determination of the case.

(2) MOTION FOR DESIGNATION. The motion for designation as Complex Litigation shall identify which of the criteria set forth in section (1) applies to the case, and shall set forth wherever applicable, the following information;

- (i) A short statement of the nature of the case;
- (ii) A list of parties served, in the process of being served or anticipated to be joined in the action;
- (iii) Whether jury trial has been demanded or will be demanded;
- (iv) A list of anticipated discovery, discovery in progress and completed discovery;
- (v) A list of anticipated motions, motions pending and hearing dates; and
- (vi) Any other matters which may be conducive to the just, efficient, and economical determination of the action or proceeding, including the definition or limitation of issues.

(3) CASE MANAGEMENT CONFERENCES. The judge assigned to the complex case shall conduct case management conference(s) to determine all deadlines under these rules at which the court may:

- (i) Establish deadlines for the following:
 - (A) A meeting with the Judiciary Center for Alternative Dispute Resolution; and
 - (B) Other matters as deemed applicable by the court.
- (ii) Discuss the following:
 - (A) Appointment of special masters pursuant to Rules 26 and 53 of the Hawai'i Rules of Civil Procedure;
 - (B) Discovery schedule, including setting of any

further case management conferences; and

(C) Other matters which may be conducive to the just, efficient, and economic determination of the case.

(4) COMPLEX CASE MANAGEMENT ORDER(S). The court may issue complex case management order(s) which may include, but shall not be limited to, the items set forth in section (3). The order(s) shall be binding as to all parties. The provisions of any order shall not excuse compliance with otherwise applicable rules or deadlines unless specifically ordered by the court.

(l) Final naming of witnesses. Sixty (60) days prior to the discovery cut off date plaintiff must name all theretofore unnamed witnesses. Thirty (30) days prior to the discovery cut off date defendant must name all theretofore unnamed witnesses.

(m) Further discovery. After the deadline for Final Naming of Witnesses, a Motion for Further Discovery can be filed upon a showing of good cause and substantial need.

(n) Exclusion of witnesses. Any party may move the court for an order excluding a witness named by an opposing party if said witness was or should have been known at an earlier date and allowing the witness to testify will cause substantial prejudice to the movant. The movant under this motion must make a statement concerning the prejudice that will be suffered should this new witness be allowed to testify, and why the opposing party either knew or should have known of the witness at an earlier date. The opposing attorney must submit an affidavit stating that the witness was not known at an earlier date, nor with due diligence should have been known.

(o) Additional witness. At any time after the time for Final Naming of Witnesses, upon a showing of good cause and substantial need a party may move for the addition of a witness.

(p) Deviation in time for filing. Deviations from the time requirements for the filing of any document under this rule shall be allowed only upon good cause shown.

(q) Dismissal for want of prosecution. Where a pretrial statement has not been filed within 8 months after a complaint has been filed or within any further period of extension granted by the court or if a trial setting status conference has not been scheduled as required by Rule 12(c), the clerk shall

notify in writing all parties affected thereby that the case will be dismissed for want of prosecution unless objections thereto showing good cause (specific reasons) are filed within 10 days after receipt of such notice. If objections are not filed within said 10-day period or any extension granted by the court, the case shall stand dismissed without prejudice without the necessity of an order of dismissal being entered therein. Where objections are filed within said 10-day period or any extension granted by the court, the court shall hear said objection upon notice and determine whether the case should be dismissed.

(r) Discovery cut off. Discovery shall be cut off 60 days before the assigned trial date.

(s) Additional party practice. Ten (10) days after the appearance of any additional party who has been joined following the service of the initial pretrial statement or one year after the filing of the complaint, whichever is later, the party joining the additional party and all other parties asserting affirmative claims against the additional party shall each file and serve (in accord with Rule 5 of the Hawai'i Rules of Civil Procedure) a pretrial statement against the additional party. The pretrial statement shall set forth the same kind of information as required by Rule 12(b) of these rules. The additional party shall file and serve (in accord with Rule 5 of the Hawai'i Rules of Civil Procedure) a responsive pretrial statement that sets forth the same kind of information required by Rule 12(b) of these rules within 60 days of the service of the pretrial statement against the additional party. The additional party shall move the court for any deviation from the time requirements under these rules within 30 days of the filing of the pretrial statement against said additional party.

(t) Sanctions. Failure of a party or his attorney to comply with any section of this rule is deemed an undue interference with orderly procedures and unless good cause is shown, the court may, in its discretion, impose sanctions in accord with Rule 12.1(a)(6) of these rules.

(Amended June 22, 1983, effective July 1, 1983, further amended May 24, 1984, effective July 1, 1984; further amended July 26, 1990, effective September 1, 1990; further amended September 11, 1996, effective January 1, 1997; further amended September 20, 1996, effective January 1, 1997; further amended May 15, 1997, effective June 2, 1997.)

Rule 12.1. CIVIL SETTLEMENT CONFERENCE; SETTLEMENT CONFERENCE STATEMENT; CONFIDENTIAL SETTLEMENT CONFERENCE LETTER.

(a) Settlement conference. A settlement conference may be ordered by the court at any time before trial. Any party may also file a request for settlement conference at any time prior to trial. A settlement conference in civil cases shall be subject to the following guidelines:

(1) If a party settles or otherwise disposes of any action prior to a scheduled settlement conference, the party shall immediately notify the judge who scheduled the conference;

(2) Each party to the action shall attend the conference or be represented by an attorney or other representative who has authority to settle the case;

(3) For each party represented by counsel an attorney who is assigned to try the case shall attend the settlement conference. It is expected that the attorney will have become familiar with all aspects of the case prior to the conference;

(4) Each party to the action shall have thoroughly evaluated the case and shall have discussed and attempted to negotiate a settlement through an exchange of written bona fide and reasonable offers of settlement prior to the conference;

(5) The judge conducting the settlement conference may, at the conclusion of said conference, continue said conference to another time and date, and from time to time thereafter for continued settlement negotiations if he has reason to believe a settlement can thereby be effectuated;

(6) **SANCTIONS.** The failure of a party or his attorney to appear at a scheduled settlement conference, the neglect of a party or his attorney to discuss or attempt to negotiate a settlement prior to the conference, or the failure of a party to have a

person authorized to settle the case present at the conference shall, unless a good cause for such failure or neglect is shown, be deemed an undue interference with orderly procedures. As sanctions, the court may, in its discretion:

(i) Dismiss the action on its own motion, or on the motion of any party or hold a party in default, as the case may be;

(ii) Order a party to pay the opposing party's reasonable expenses and attorneys' fees;

(iii) Order a change in the calendar status of the action;

(iv) Impose any other sanction as may be appropriate.

(b) Settlement conference statement. In all civil cases, including those which have been designated as Complex Litigation, a settlement conference statement shall be filed not less than 5 working days prior to the date of the settlement conference. The settlement conference statement shall be filed with the clerk of court and a file-marked copy shall be delivered to the office of the judge conducting the settlement conference, and copies served upon all other parties. The statement shall set forth, wherever applicable, the following information:

(1) FOR THE PLAINTIFF:

(i) The name, age, marital status and occupation of all noncorporate plaintiffs;

(ii) The relief claimed by each plaintiff;

(iii) A factual summary of the case;

(iv) Plaintiff's theories of liability against each defendant;

(v) The name, address, field of expertise and summary of substance of testimony of each expert witness who supports plaintiff's theories of liability;

(vi) The name, address and summary of substance of testimony of all other witnesses who support plaintiff's theories of liability;

(vii) A statement of plaintiff's position on general damages, including a statement of all injuries and damages claimed by plaintiff, together with the names of plaintiff's expert witnesses, including doctors, and copies of their reports;

(viii) Plaintiff's claim of special damages including an itemized statement of all special damages claimed by plaintiff;

(ix) The name, address, field of expertise and summary of substance of testimony of each expert

witness who supports the plaintiff's claim of special damages;

(x) The name, address and summary of substance of testimony of all other witnesses who support plaintiff's position on damages; and

(xi) A statement of the status of settlement negotiations.

(2) FOR THE DEFENDANTS:

(i) The age, marital status, occupation and corporate or other legal status of each defendant;

(ii) The name of applicable insurance carriers and the stated policy limits;

(iii) A factual summary of the case;

(iv) The defense to each of plaintiff's theories of liability;

(v) The name, address, field of expertise and summary of substance of testimony of each expert witness who supports the defenses to plaintiff's theories of liability;

(vi) The name, address and summary of substance of testimony of all other witnesses who support the defenses to plaintiff's theories of liability;

(vii) A statement of the defense position on general damages, including a statement of all injuries and damages disputed by defendant, together with the names of defendant's expert witnesses including doctors, and copies of their reports;

(viii) The defendant's position on special damages including a statement of which special damages are disputed;

(ix) The name, address, field of expertise and summary of substance of testimony of each expert witness who supports the defense position on special damages;

(x) The name, address and summary of substance of testimony of other witnesses who support the defense position on damages; and

(xi) A statement of the status of settlement negotiations.

(c) Confidential settlement conference letter.

At least five (5) working days before the settlement conference, each party shall deliver directly to the settlement conference judge a confidential settlement conference letter, which shall not be filed or served upon the other parties. The confidential settlement conference letter shall not be made a part of the record and confidential information contained in the letter shall not be disclosed to the other parties without express authority from the party submitting the letter. The court will destroy the confidential settlement conference letter no later than entry of final judgment in the case.

The confidential settlement conference letter shall include a forthright evaluation of the parties' likelihood of prevailing on the claims and defenses, a description of the major issues in dispute, including damages, counsel's good faith evaluation of the case, and other information requested by the court.

(Added June 22, 1983, effective July 1, 1983; further amended May 24, 1984, effective July 1, 1984; further amended June 28, 1984, effective July 1, 1984; further amended October 21, 1999, effective January 1, 2000.)

Rule 12.2. ALTERNATIVE DISPUTE RESOLUTION.

The court, in its discretion or upon motion by a party, may order the parties to participate in an alternative dispute resolution process subject to conditions imposed by the court.

(Added September 11, 1996, effective January 1, 1997.)

Rule 13. TRIAL CALENDARS AND THE FIRST CIRCUIT ON-CALL STATUS; CIVIL CASES.

(a) Trial calendars. The court shall prepare and maintain a trial calendar for jury trials and a separate trial calendar for jury-waived trials of all civil cases which may require hearing or trial.

All such cases placed on the trial calendars shall be called and assigned to any available judge for hearing or trial during the week the same shall be set unless continued for good cause.

When any action on the ready calendar is called during a calendar call or when any action is called for a pretrial or settlement conference after timely notice to all attorneys or parties not represented by

counsel, the court, may, on its own motion or on the motion of any party, dismiss such action or hold the defendant in default, as the case may be, if any of the parties fails to appear.

Any case at issue, whether on the ready calendar or not, may be advanced and set for a pretrial or settlement conference or be immediately placed on the trial calendar for hearing or trial.

All civil cases appealed to the circuit court, when docketed, shall be placed on the appropriate trial calendars of civil cases.

(b) The first circuit on-call status.

(1) All first circuit trials in which doctors or other experts will be offered as witnesses will have a fixed trial date and counsel will be on "24-hour notice" to commence trial the entire week. However, by Friday of the assigned week, if the trial cannot commence, then the trial judge will return the file to the administrative judge and the parties will:

(i) either agree to a new trial week which will fall within 90 days from the date of the original trial week, subject to the administrative judge's approval, or

(ii) if the parties cannot agree or the administrative judge cannot accommodate the agreed upon date, then the parties will meet with the administrative judge for a trial setting which will, in any event, be no later than 90 days from the date of the originally scheduled week.

(2) In cases not involving doctors or other expert witnesses, trial counsel will be on a 24-hour notice during the week trial is set, and if trial does not commence during said week, they will then be on a "48-hour notice" for the next 2 calendar weeks.

(Amended June 22, 1983, effective July 1, 1983, further amended May 24, 1984, effective July 1, 1984; further amended July 26, 1990, effective September 1, 1990.)

Rule 14. DISTRICT COURT CASES, DEMAND FOR JURY TRIAL, WITHDRAWAL OF DEMAND.

(a) Notification; demand for jury trial of additional issues. Upon the docketing in the circuit court of a case transferred from the district court because of a demand for jury trial, the clerk of the circuit court shall notify the parties. Within ten days after notice of the docketing, any party may, if the demand transmitted by the clerk of the district court was for trial by jury of only specific issues, serve a demand for trial by jury of any other or all of the issues which are triable of right by a jury.

(b) Waiver or withdrawal of demand. A case transferred from the district court to the circuit court for trial by jury may be remanded by the circuit court to the district court for further proceedings if the demand for jury trial is waived or withdrawn in the circuit court.

(Amended May 15, 1972, effective July 1, 1972.)

Rule 15. EXPEDITION OF COURT BUSINESS.

(a) Required notice. Attorneys shall advise the court promptly if a case is settled. An attorney who fails to give the court such prompt advice may be subject to such discipline as the court deems appropriate.

(b) Effect of failure to appear. An attorney who, without just cause, fails to appear when his case is before the court on a call or motion or on pre trial or trial, or unjustifiably fails to prepare for a presentation to the court necessitating a continuance, may be subject to such discipline as the court deems appropriate.

Rule 16. DEPOSITIONS.

(a) Preparation and sealing by officer taking deposition. Unless an extension of time is granted by the court, the officer taking the deposition shall prepare and seal the deposition within 30 days after the taking of the deposition.

(b) Depositions taken outside this state. Unless an extension of time is granted by the court, depositions taken outside this state shall be filed with the court within 30 days after the taking of the deposition; provided, however, that if a deposition is taken less than 30 days prior to trial, the party taking the deposition shall make appropriate arrangements

with the officer taking the deposition for the filing thereof prior to the commencement of trial.

(c) Unsigned depositions. If the officer prepares and seals an unsigned deposition, the officer shall certify on the deposition the fact of waiver, illness, absence, or failure of the witness to appear, or the refusal to sign together with the reason, if any, given therefor.

(d) Sealing. Once the officer has sealed a deposition it shall remain sealed unless opened temporarily by the officer or opened by the direction of a judge; provided that copies may be obtained pursuant to Rule 30(f)(2) of the Hawai'i Rules of Civil Procedure.

(Amended March 16, 1984, partly effective March 16, 1984, fully effective May 1, 1984.)

Rule 17. CONDUCT OF A TRIAL.

(a) Sequence of presentation. Subject to the orders of the court, which may alter the sequence of presentation of the case when there are numerous parties or for other reasons:

(1) The plaintiff (or the prosecuting officer in a criminal case) shall have the right to make an opening statement. The defendant shall also have the right to make an opening statement, either immediately after the plaintiff's or the prosecuting officer's statement or at the beginning of defendant's case.

(2) After the opening statement or statements the plaintiff or prosecuting officer shall produce the evidence on his part.

(3) The defendant may then open his or her defense and offer his or her evidence in support thereof.

(4) The parties may then respectively offer rebutting evidence only.

(5) When the presentation of evidence is concluded, unless the case is submitted on either side or both sides without argument, the plaintiff or prosecuting officer shall open the argument; the defendant may then reply; and the plaintiff or prosecuting officer may conclude the argument, and in the conclusion shall confine himself or herself to answering any new matter or arguments presented by the defendant. In the event the defendant has presented an affirmative defense, the court may allow surrebuttal argument but shall confine counsel to answering or otherwise responding to the

arguments presented by the plaintiff or prosecuting officer on the issue of the affirmative defense.

(b) Address to jury is not instruction upon the law. In his or her address to the jury each party shall be allowed to fully and fairly state his or her theory of the case and the reasons which entitle him to a verdict. He or she shall not assume to instruct the jury upon the law, in such manner as to encroach upon the function of the court to so instruct the jury.

(c) Instruction to the jury. The court shall instruct the jury in accordance with the provisions of the Hawai'i Rules of Civil Procedure and the Hawai'i Rules of Penal Procedure.

(d) Presence of counsel at verdict. Unless excused by the court, counsel for all parties shall be present upon receiving the verdict of a jury.

(e) Limitations on number of counsel. Except by leave of court:

(1) Only one counsel for each party shall examine and cross-examine the same witness or be heard on any question.

(2) No more than two counsel shall appear for any party on the trial.

(f) Sequence for challenging of jurors. In the challenging of jurors, the following order and sequence shall be observed: the plaintiff, in civil actions, and the State in criminal cases, shall first challenge for cause, after which the defendant shall challenge for cause. After the challenges for cause, if any, have been determined, the State or plaintiff (as the case may be), and the defendant, shall alternately state their peremptory challenges, if any, the State or plaintiff beginning, and the defendant ending. In case there are more than two parties in any case, the order of precedence of their challenges, if not agreed upon by them, shall be determined by the court.

(Amended May 15, 1972, effective July 1, 1972; further amended July 12, 1993, effective August 26, 1993; further amended March 24, 2000, effective July 1, 2000; further amended May 5, 2000, effective July 1, 2000.)

Rule 18. PRE-TRIAL DISCLOSURE AND MARKING OF EXHIBITS.

(a) Disclosures and exhibits. When a pretrial is held, except as and to the extent otherwise ordered by the court:

(1) Each party shall disclose the theory of his

case, including the basic facts that he intends to prove and the names and addresses of all witnesses that he intends to call.

(2) Each party shall disclose to all others and permit examination of all exhibits which are in his possession or under his control and which he intends to offer in evidence at the trial.

(3) Unless so disclosed, no exhibits required to be disclosed by paragraph (2) shall be received in evidence at the trial over objection unless the court finds that there was reasonable ground for failing to disclose such exhibits prior to trial. Objections to receipt of exhibits for violation of this rule shall be made without the presence of the jury.

(4) All exhibits required to be disclosed by paragraph (2), and any other exhibits as may be requested by counsel presenting the same, shall be marked for identification at least one day prior to the trial and shall be listed in any pre-trial order.

(b) Effect of pre-trial order. The pre-trial order shall supersede the pleadings where there is any conflict; and shall supplement the pleadings in all other respects.

Rule 19. STIPULATIONS AND ORDERS THEREON.

(a) Forms of stipulations and orders. Unless made in open court, all stipulations shall be in writing, signed by the parties or their attorneys, and filed with the clerk. An order based upon a stipulation shall be sufficient if the words "It is so ordered" or their equivalent are endorsed on the stipulation at the close thereof and if this endorsement is signed by the judge, or by the clerk if permitted under Rule 10.

(b) Stipulations extending time. Stipulations for the approval of the court extending time to act under Rule 6(b)(1), Hawai'i Rules of Civil Procedure and Rule 45(b)(1), Hawai'i Rules of Penal Procedure shall recite the time of expiration of the period originally prescribed or as extended by a previous order.

Rule 20. INSTRUCTIONS TO JURIES.

(a) **Requests for instruction.** Each instruction requested shall designate at the top thereof by whom it is being requested and the number of the request, e.g., PLAINTIFFS INSTRUCTION NO. 3. Each requested instruction shall be written on a separate page or group of pages. The original and one copy of each requested instruction shall be filed with the court and a copy served upon opposing counsel.

(b) **Copy of charge for jurors.** The court may permit a copy of its charge without citations or any identification with any party to be taken into the jury room.

Rule 21. SUBMISSION OF PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW.

The party who prevails after the presentation of evidence in a jury-waived case shall submit to the court proposed findings of fact and conclusions of law pursuant to Rule 52, Hawai'i Rules of Civil Procedure. The party required to prepare such proposed findings of fact and conclusions of law shall have 10 days, unless such time is extended by the court, to draft the same and secure the approval as to form of opposing counsel thereon and deliver the original and one copy to the court, or, if not so approved, serve a copy thereof upon each party who has appeared in the action and deliver the original and one copy to the court. If the form of the proposed findings of fact and conclusions of law has not been approved, a party served with the proposed findings and conclusions may within 5 days thereafter serve and deliver to the court objections and a copy of his proposed findings and conclusions. The court shall determine the findings of fact and conclusions of law to be entered.

If after the conclusion of all testimony in a jury-waived case, and after the submission thereof, the court does not indicate which party has prevailed in the action, the respective parties involved may be requested to submit proposed findings of fact and conclusions of law.

Rule 22. REQUEST FOR DRAFT OF DECISION ON ISSUE OF LAW.

Whenever the court proposes to file a written decision on any motion or issue of law, it may at any time request one or more of the parties to submit a

draft of decision. In such event, the court shall advise all parties of its action, and the draft so submitted shall be served, and an opportunity shall be given to opposing counsel to present comments with respect thereto. The failure of any party to submit comments with respect to any such draft shall not affect the right of such party to appeal from any judgment incorporated in or based on the decision as issued.

Rule 23. SETTLEMENT OF JUDGMENTS, DECREES, AND ORDERS.

Within 10 days after decision of the court awarding any judgment, decree or order that requires settlement and approval by a judge, including any interlocutory order, the prevailing party, unless otherwise ordered by the court, shall prepare a judgment, decree or order in accordance with the decision, attempt to secure the approval as to form of opposing parties thereon, and following such approval deliver the original and one copy to the court. If there is no objection to the form of a proposed judgment, decree or order, the party shall promptly approve as to form. In the event a proposed judgment, decree or order is not approved as to form by an opposing party within 5 days of a written request for such approval, the prevailing party shall deliver the original and one copy to the court along with notice of service on all parties and serve a copy thereof upon each party who has appeared in the action. If any party objects to the form of a proposed judgment, decree or order, that party shall within 5 days thereafter serve upon the prevailing party and deliver to the court a statement of that party's objections and the reasons therefor, and the form of the party's proposed judgment, decree or order, and in such event, the court shall proceed to settle the judgment, decree or order. Failure to file and serve objections and a proposed judgment, decree or order shall constitute approval as to form of the prevailing party's proposed judgment, decree or order. Approval as to form shall not affect the right, or constitute waiver of the right, of any party to appeal from any judgment, decree or order issued.

(Amended October 27, 1993, effective November 27, 1993; further amended December 20, 1993, effective December 20, 1993; further amended September 11, 1996, effective January 1, 1997.)

Rule 24. IMMEDIATE NOTICE OF COURT ACTION.

The court shall immediately notify counsel of the filing of findings of fact and conclusions of law, or of any opinion or memorandum of decision stating the facts and the court's opinion of the law, or of any other decision or opinion of the court.

Rule 25. ORDER FOR TRANSCRIPT OF EVIDENCE.

Upon the request of any person for a transcript of the evidence or other court proceeding, the official reporter shall furnish such transcript in the regular order of cases tried or in such order as the court administrator directs. The official reporter shall not furnish a transcript of a confidential proceeding without the court's written approval, unless otherwise authorized by law. The provisions of the Hawai'i Rules of Appellate Procedure relating to transcripts shall govern requests for transcripts for purposes of appeal. Each request shall be in writing, filed, and a copy shall be served upon opposing counsel and the reporter, and shall be accompanied by a prepayment to the reporter or deposit with the clerk of the court, as provided by Hawai'i Revised Statutes Section 606-13 of the approximate cost of the transcript fees as computed by the reporter in advance in writing at the rate established by the Rules Governing Court Reporting in the State of Hawai'i. If a request is accompanied by a deposit with the clerk, the deposit shall be further accompanied by directions to the clerk of the court to use it to pay for the reporter's fees when the transcript is complete. A reporter need not commence preparation of the transcript until the required prepayment is or deposit has been made.

(Amended effective July 1, 1999; further amended October 8, 2004, effective January 1, 2005; further amended November 24, 2004, effective January 1, 2005.)

Rule 25.1. RECORDING OF TESTIMONY AND PROCEEDINGS.

(a) Preservation of testimony. Whenever a court reporter is not in attendance, the court shall order that the testimony and other matters required to be preserved by a reporter shall be preserved on tape or by such other device as may be appropriate. It is the responsibility of the court to see to it that the record so made is sufficiently clear to permit full transcription and truly discloses what occurred in the

court, and that a log is kept with such particularity, and with such references to the record made on tape or by other device, as will enable the record to be reviewed and transcribed as occasion arises.

(b) Effect of certain terms; obtaining transcript. Whenever in Rule 25 or other rules of court, or in the provisions of Hawai'i Revised Statutes Section 606-13 relating to transcripts, reference is made to the report of the evidence or proceedings at a hearing or trial, or to the court reporter or official reporter, these terms and words of like import shall, if no court reporter was in attendance and the record has been preserved on tape or by other device, be deemed to refer to the record so preserved except as otherwise provided. Upon the request of any person for preparation of a transcript of a record so preserved, the supervising court reporter or, if there is no supervising court reporter, the court administrator shall cause the transcript to be furnished in the regular order of cases so recorded or in such order as the court administrator directs. A transcriber shall not furnish a transcript of a confidential proceeding without the court's written approval, unless otherwise authorized by law. Transcript fees shall be prepaid or deposited as in other cases, and the transcriber shall not be required to commence transcribing the record until the required prepayment or deposit is made.

(c) Preparation of transcript. A transcript in a case recorded as provided by this rule shall be prepared by a competent person approved by the court. Unless the court otherwise directs (1) the transcript shall be certified by the transcriber who, for this purpose, shall have the powers of a clerk of the court, and (2) the transcript fees shall be paid to the transcriber upon completion of the work.

(Added November 29, 1974, effective November 29, 1974; further amended October 8, 2004, effective January 1, 2005.)

Rule 26. ATTORNEY'S LIABILITY FOR COSTS; DISQUALIFICATION OF SURETIES.

(a) Liability for court costs. Attorneys shall be liable to the court for court costs incurred by their clients.

(b) Who may not be surety. No attorney or other officer or employee of the court shall become surety on any bond or undertaking in any action or proceeding in this court, unless authorized by the

court.

Rule 27. PREPARATION OF CLERK'S MINUTES AND DEPOSIT OF EXHIBITS.

The court shall cause minutes to be prepared for its own use. Such minutes shall be appended chronologically at the bottom of the case folio.

Immediately upon the conclusion of a proceeding, all exhibits received, together with the original of the exhibit list, shall be deposited with the clerk, who shall acknowledge receipt of same on a copy of the exhibit list, which shall be filed in the folio.

Rule 28. DISMISSAL FOR WANT OF SERVICE.

A diligent effort to effect service shall be made in all actions, and if no service be made within 6 months after an action has been filed then after notice of not less than 5 days the same may be dismissed.

Rule 29. DISMISSAL FOR WANT OF PROSECUTION IN DEFAULT CASES.

A case may be dismissed with prejudice for want of prosecution after notice of not less than 5 days where all defendants are in default and if the plaintiff fails to obtain entry of default and fails to apply for default judgment within six months after all defendants are in default.

Rule 30. INTERROGATORIES AND ADMISSIONS.

(a) **Objection by party.** The party objecting to an interrogatory shall serve an answer thereto within 10 days after receiving notice of the court's order overruling the objection, unless otherwise ordered by the court. Answers or objections to interrogatories pursuant to Rule 33 of the Hawai'i Rules of Civil Procedure or Hawai'i Family Court Rules shall identify and quote each interrogatory in full immediately preceding the statement of any answer or objection thereto. Motions to compel answers to specific interrogatories shall also identify and quote each interrogatory in full. Responses and objections to requests for admissions pursuant to Rule 36 of the Hawai'i Rules of Civil Procedure or Hawai'i Family Court Rules shall identify and quote each request for admission in full immediately preceding the

statement of any answer or objection thereto.

(b) **Form.** Interrogatories and requests for admission served pursuant to Rule 33 and Rule 36, Hawai'i Rules of Civil Procedure or Hawai'i Family Court Rules, shall provide reasonably sufficient space for the answer after each interrogatory or request. Two sets of the interrogatories or requests for admission shall be served upon the adverse party. Those interrogatories shall not exceed 60 in number, counting any subparts or subquestions as individual questions, without prior leave of court or written stipulation of the parties pursuant to Rule 29 of the Hawai'i Rules of Civil Procedure.

(Amended March 6, 1980, effective March 6, 1980, further amended March 16, 1984, partly effective March 16, 1984, fully effective May 1, 1984; further amended October 8, 2004, effective January 1, 2005.)

Rule 31. PROCEEDINGS NOT GOVERNED BY HAWAII RULES OF CIVIL PROCEDURE.

(a) **Procedure.** Except as provided by statute or by other rules of court, where a civil proceeding is not governed by the Hawai'i Rules of Civil Procedure:

(1) The proceeding shall be commenced by petition;

(2) The petition shall be verified by the oath of the petitioner, or someone on his behalf, deposing to the best of his knowledge and belief;

(3) Service of the petition and order to show cause and any other process or order shall be made as provided by the Hawai'i Rules of Civil Procedure;

(4) A return to the petition shall be made within the time ordered by the court, and if it presents an issue of fact shall be supported by oath;

(5) The court may designate and order that any one or more of the Hawai'i Rules of Civil Procedure shall be applicable in such case.

Rule 32. INAPPLICABILITY OF RULES.

To the extent that there is any conflict between these rules and the Hawai'i Rules of Civil Procedure or the Hawai'i Rules of Penal Procedure the latter shall prevail.

Rule 33. PROCEDURES FOR PROCESSING POST-CONVICTION PRISONER DOCUMENTS.

(a) Submission to office of clerk; docketing; SPP number. All written or typed post-conviction prisoner pleadings, correspondence, applications or requests mailed to, delivered to, or received by any court, judge, the public defender, the prosecuting attorney, or the chief clerk of the circuit court, shall be transmitted to the documents section of the circuit court for processing. All such prisoner documents shall be received as public documents and no such documents shall be considered or treated as "confidential," "private," "personal," etc. Each document received by the documents section shall be docketed and filed under an SPP (Special Proceeding - Prisoner) number and a separate file shall be established for each document, provided, however, that the court may direct that there be one SPP number for each prisoner so that all subsequent post-trial documents by the same prisoner shall be filed in the same SPP number.

(b) Disposition. All documents processed pursuant to subsection (a) shall be governed by Rule 40 of the Hawai'i Rules of Penal Procedure.

(Amended April 18, 1994, effective April 28, 1994.)

Rule 34. HAWAI'I ARBITRATION RULES.

The Hawai'i Arbitration Rules (Rules Governing the Court Annexed Arbitration Program), attached to these Rules of the Circuit Courts as Exhibit A, shall govern the Court Annexed Arbitration Program in the circuit courts of this state, and shall be effective as provided in Hawai'i Arbitration Rule 27.

(Added January 22, 1986, effective February 15, 1986; amended September 28, 1987, effective October 1, 1987.)

Suggested forms - First pages of pleadings.

RCCH--17

at least 1" →

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF Hawai'i

A. B., Plaintiff,

v.

C. D. and E. F., Defendants

) Civil No. ____
)
) MOTION FOR TEMPORARY
) RESTRAINING ORDER AND
) PRELIMINARY INJUNCTION

)

)

**MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

The Plaintiff, A. B., moves this Court

(Suggested Form: First page of the first paper)

FORM A

(Reserved)

FORM B

IN FORMA PAUPERIS DECLARATION

[Insert appropriate court]

State of Hawai'i

v.

DECLARATION IN SUPPORT
OF REQUEST
TO PROCEED
IN FORMA PAUPERIS

(Petitioner)

I, _____, declare that I am the petitioner in the above entitled case; that in support of my petition to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty, I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to relief.

1. Are you presently employed?

Yes _____ No _____

- a. If the answer is "yes," state the amount of your salary or wages per month, and give the name and address of your employer.

- b. If the answer is "no," state the date of last employment and the amount of the salary and wages per month which you received.

2. Have you received within the past twelve months any money from any of the following sources?

- a. Business, profession or form of self-employment?

Yes _____ No _____

- b. Rent payments, interest or dividends?

Yes _____ No _____

- c. Pensions, annuities or life insurance payments?

Yes _____ No _____

- d. Gifts or inheritances?

Yes _____ No _____

- e. Any other sources?

Yes _____ No _____

RULES OF THE CIRCUIT COURTS

Form B

If the answer to any of the above is "yes," describe each source of money and state the amount received from each during the past twelve months. _____

3. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts.)

Yes _____ No _____

If the answer is "yes," state the total value of the items owned.

4. Do you own real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

Yes _____ No _____

If the answer is "yes," describe the property and state its approximate value.

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

I declare (**or certify, verify, or state**) under penalty of perjury that the foregoing is true and correct.
Executed on _____ (date) .

Signature of Petitioner

CERTIFICATE

I hereby certify that the petitioner herein has the sum of \$ _____ on account to his credit at the _____ institution where he is confined. I further certify that petitioner likewise has the following securities to his credit according to the records of said _____ institution:

Authorized Officer of Institution

